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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GENE A. ALLEN,

Petitioner,

vs.

JAMES G. COX, *et al.*,

Respondents.

3:14-cv-00510-RCJ-VPC

ORDER

14 This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a
15 state prisoner, is proceeding *pro se*. Petitioner filed an amended petition pursuant to this court's order
16 (ECF #23).

17 Petitioner has also filed a motion for appointment of counsel (ECF #25). There is no
18 constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v.*
19 *Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision
20 to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986),
21 *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469
22 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that
23 denial of counsel would amount to a denial of due process, and where the petitioner is a person of such
24 limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see*
25 *also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). Here, petitioner is serving a sentence of ten
26 years to life with the possibility of parole and appears to challenge his denial of parole in 2011 and again
27 in 2014. Petitioner's filings in this case, including the purported amended petition, indicate that he is
28 incapable of fairly presenting his claims. Therefore, counsel shall be appointed to represent petitioner.

1 **IT IS THEREFORE ORDERED** that petitioner's motion for appointment of counsel (ECF
2 #25) is **GRANTED**.

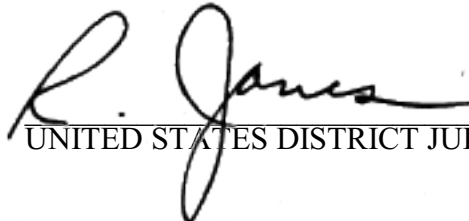
3 **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of Nevada
4 ("FPD") is appointed to represent petitioner.

5 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the FPD
6 a copy of this order, together with a copy of the amended petition for writ of habeas corpus (ECF #23).
7 The FPD shall have thirty (30) days from the date of entry of this order to file a notice of appearance
8 or to indicate to the court its inability to represent petitioner in these proceedings.

9 **IT IS FURTHER ORDERED** that, after counsel has appeared for petitioner in this case, the
10 court will issue a scheduling order, which will, among other things, set a deadline for the filing of a first
11 amended petition.

12 **IT IS FURTHER ORDERED** that petitioner's motion for a docketing statement (ECF #27)
13 and motion for a status check (ECF #29) are both **DENIED** as moot.

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15 Dated May 7, 2015

16 
17 UNITED STATES DISTRICT JUDGE
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